

Appl. No.: 10/824,234

Amdt. Dated May 2, 2006

Response to Office Action Mailed January 5, 2006

## REMARKS:

Applicant appreciates the time and care the examiner has taken in examining the application.

In making the amendments shown above, care has been taken to ensure that the claims remain supported by the specification. No new matter has been introduced.

The rejections under Sections 102(e) and 103(a) are respectfully traversed for at least the following reasons. *Riegl* forms the basis of every rejection, and in each of the Section 103(a) rejections, the examiner combines *Riegl* with other cited references in attempt to yield missing claimed features. However, fundamental differences between the claimed invention and the teachings of *Riegl* negate the Section 102(e) rejection as well as the Section 103(a) rejections. The apparatus disclosed in *Riegl* measures a distance between the apparatus and an object in an object space by utilizing time of flight of light pulses, and then forms a set of data, including image data and distance data, which is then stored in memory. These data are for creating an image of the object space and displaying the created image of the obtained object space, to which distance values are assigned. In other words, the above-described distance measurement is an essential factor in *Riegl* in order to obtain the data for the formation for the image.

In contrast, according to the surveying apparatus of the present invention as claimed, design data (construction-related data) and positional data of the surveying apparatus are stored in the storing portion. A model (image) of the object, which is expected to be actually seen or placed (constructed) from a position of the apparatus in the aimed direction, is formed by

utilizing such design data and positional data stored in the storing portion. The formed model (image) is then displayed on a displaying portion in accordance with an aimed direction measured by an angle-measuring portion.

Therefore, the invention claimed herein differs from the cited references at least in that: (a) the present invention does not rely upon previous distance measurement to obtain the data for the formation of the image, as is done in *Riegl*; (b) the contents of the image formed by such data, *i.e.* the image of the object, are displayed with distance values (distance image) obtained by the distance-measurement in *Riegl*; and (c) *Riegl* does not utilize the above-referenced design data.

Further, none of the cited references, and in particular *Riegl*, teaches or suggests the claimed features of the instant invention wherein a model of an expected arrangement at completion of an object which is expected to be seen from a position of the surveying apparatus body in the aimed direction is obtained by calculation, based on the aimed direction measured by the angle-measuring portion, the design data and the positional data by the surveying apparatus body, and the calculated model is displayed on the displaying portion. The cited references even when combined neither teach, nor fairly suggest under applicable Section 103(a) obviousness standards, these claimed features set forth in independent claims 1 and 3 herein.

It is therefore submitted that the invention as claimed is not anticipated under Section 102(e) by *Riegl*, and that no prima facie case of obviousness has been established and the Section 103(a) rejections should be withdrawn. It is respectfully submitted that the application is in condition for prompt allowance and that all of the objections, rejections and requirements raised in the Office action have been met.

*Extension Request and Fee Authorization.* The Commissioner is hereby authorized to charge any fees associated with this communication, including any necessary fees under 37 CFR

§ 1.17(a) for any necessary extensions of time under 37 CFR §1.136(a), which are hereby requested, to our Deposit Account No. 50-0305.

Early, favorable treatment of this application is requested. The examiner is encouraged to telephone the undersigned with any questions or comments so that efforts may be made to resolve any remaining issues.

Respectfully submitted,

By: 

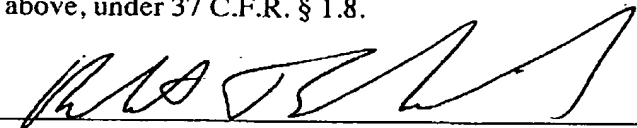
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**CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. § 1.8**

Attorney Docket Number: 1715663  
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I hereby certify that the attached correspondence, namely: Response to Office Action, was transmitted by facsimile on the date listed above, to the U.S. Patent Office at the facsimile number listed above, under 37 C.F.R. § 1.8.

Signature: 

Typed Name of Person Signing this Certificate: Robert J. Schneider, Reg. No. 27,383

Date of Signature: May 2, 2006